

Port San Luis: A Tarnished Jewel



Point San Luis Lighthouse

PORT SAN LUIS: A TARNISHED JEWEL

SUMMARY

The primary purpose of the Port San Luis Harbor District is to provide water access to commercial and recreational boaters and other harbor visitors while enhancing and maintaining the maritime character of the harbor. The Grand Jury sought to determine whether the Harbor District is operating efficiently and whether there are areas of operation that need improvement. Our investigation raised issues involving the District's boatyard contract and operation, boat launch access, votes cast by Harbor Commission members who are customers of the boatyard, and financial reports that lack detail.

PROCEDURES

The Grand Jury interviewed Harbor Commissioners, District staff, members of the public, and a concession operator. Commission and administration documents were reviewed, including:

- accounting records of the District and boatyard
- minutes of Board meetings
- staff reports and recommendations
- leases and operating agreements
- feasibility study for extending large boat launch pier
- agreement to negotiate development of Harbor Terrace.

Several visits to the Port were made including a guided tour held for the Grand Jury on March 17th.

NARRATIVE

BACKGROUND

Located on a south facing beach with the prevailing winds and swell from the northwest, this open port offers safe harbor and mild conditions for the most part; southerly storms and severe northwesterly storms are the exception. The colorful history of San Luis Bay and Avila Beach entered the "modern era" with construction of the Harford Pier in 1873, followed by the breakwater between 1893 and 1913. At one time a narrow gauge railroad ran on the pier to handle cargo offloaded from schooners to what were then distant points -- San Luis Obispo to the north and Los Olivos to the south.

The Port San Luis Harbor District (Harbor District) was formed in 1954 following a vote of the south county populace. The District's \$4 million budget is two-thirds funded from property tax. Operations and grants provide other revenues. Governance of the District is the responsibility of a five-member Board of Commissioners which is elected by voters residing within the District.

The Harbor District includes most of the county south of Cuesta Grade with the exception of Morro Bay and Los Osos. The District is within all of the third and fourth supervisorial districts. It includes about half of the City of San Luis Obispo. (See attached map – Appendix A)

The harbor's facilities and services include the 1,460 foot Harford Pier which accommodates a full service restaurant and bar, a small efficiency restaurant, boat excursion operations, a water taxi service, light hoists for very small watercraft, fuel and pump-out facilities, fish mongers and the Harbor Patrol office. On the beach side is the boatyard, another restaurant, District offices, a retail store¹, boat launch facilities and a District multi-use building containing laundry facilities, showers, restrooms and an assembly room. The District also owns boat storage area, Point San Luis Lighthouse, 8,000 plus acres of open water mooring (the mooring equipment is owned by boaters), adjacent beach, the Avila Beach public pier and beach and a parking lot in the community of Avila Beach. On District property at the base of the Avila Pier are public toilet

¹ The Grand Jury has learned that the store has recently been leased. Details about lease arrangements and voting by Commissioners are not known to the Grand Jury.

facilities and storage/office space for lifeguards and Sheriff's Deputies. On the Avila pier is a fishing supply hut as well as the private San Luis Yacht Club's building.

The Harford Pier, which has been central to the Harbor operations, is eligible for inclusion in the National Register of Historic Places and should be preserved and restored. All asphalt has been removed from the roadway length of the pier and restoration to wood is now completed.

Originally the focus of the Harbor District was commercial fishing. With decline of fisheries the number of commercial fishing boats moored at the port has been declining; last year there were about 30, this year 10 remain. Substantial capacity for commercial fishing boats has been retained in event of a rebound in fisheries.

OPERATIONS

Launch Facilities

The District operates separate launch facilities for small and large boats. Each of the launch facilities involves hoists for moving boats into and out of the water. Much of the time boats



Pier for Large Mobile Boat Hoist

cannot be moved in or out of the water because of weather, heavy seas, surge or sanding-in of the launch areas. Sanding-in results from ocean activity that moves sand and deposits it in the launch areas. To address sanding problems in the large boat launch area, a feasibility study, begun in 2007, concluded that the pier for the large mobile boat

hoist could be rebuilt and extended an additional 60' into deeper water at a cost of \$700,000. Such an extension would greatly facilitate movement of the larger boats. The Harbor District has

declined to use its own funds to solve the problem.² Instead it is currently seeking federal grant funds to extend the pier for the large boat hoist.

The smaller sport launch hoist, which is located in an area separate and apart from the large boat hoist, lifts boats weighing up to 15,000 pounds off trailers to a basin where there is a floating dock to allow tie-up and access to the shore. In this area, the District finds it must perform a dredging operation annually beginning in March. The dredging operation (which includes more than this specific area) can take several months.



Sport Launch Hoist

Boatyard

The District's boatyard has capacity for about 30 boats. It offers repair services, a place where owners can work on their own boats, boat storage and sales of marine equipment and owners boats pursuant to a posted fee schedule. The inability to move boats in and out of the water, in large part because of sanding conditions, creates a backup in the boatyard. This problem also causes potential customers to take their boats elsewhere for work and therefore reduces revenue to the boatyard and the Harbor District.

Some boats have been stored in the boatyard for exceptionally long terms and owners have been charged less than the posted storage rate. One such vessel, until a recent sale, was owned by a Harbor Commissioner. Reduced rates are charged when an owner wants to launch but the large mobile hoist is unavailable due to unfavorable sea conditions, crew unavailability, or a sanded-in launch area. Reduced rates also result when an owner anticipates or experiences a long stay for the purpose of selling a boat, as with the Harbor Commissioner. There is no published discount rate for this practice.

² The Harbor District says that it does not have \$700,000 in unencumbered funds.

Gateway Building

Completed in 2009, the Gateway Building has a second floor assembly room above first floor public laundry, shower and toilet facilities. The assembly room is intended for rent by the public when not otherwise in use for District purposes such as meetings of the Board. Additionally, Harbor District Policy 3039 authorizes free use of the room for The Lighthouse Keepers (who volunteer time for lighthouse restoration) and the Commercial Fishermen's Association. Staff has developed a rate schedule for rental of the room, but availability of the room for rental purposes is not being promoted.

Harbor Police

The Harbor District employs sworn law enforcement officers. The Harbor Patrol's primary function is as a marine search and rescue force for the Harbor District and the surrounding waters. The Harbor Patrol is the District's enforcement agent focusing on California Boating Laws and regulations concerning the operation of vessels, equipment requirements, registration, and the development and operation of small craft harbors and boat launching facilities. These officers are also responsible for policing violations of more than 60 port ordinances.

Finances

Ongoing repairs to the Harford Pier are needed. These involve the terminus of the pier and renovation of the canopy at the end of the pier. The District's practice has been to repair sections of the pier as money becomes available. However, an emergency repair to the canopy occurred in April 2010 while funding was being sought.

Grants are relied on to fund a variety of repairs and upgrades. The District is pursuing grants for a long list of projects, including:

- Harford Pier repair and canopy renovation
- travel hoist pier repair and extension
- Avila Pier repairs
- miscellaneous port security issues
- miscellaneous beach access- stairs and ramps
- enhancement of the historic Point San Luis Lighthouse

- bike and pedestrian facilities
- dredging and dredge equipment
- commercial fishing support
- improved energy efficiency and conservation
- fire protection infrastructure
- water and sewer infrastructure
- roads and parking infrastructure
- emergency planning.

The District's policy for requiring competitive bids applies only to outside contractors and consultants. It has not been the consistent practice of the District to require competitive bidding for concession rights. This could represent lost income opportunity. The agreement to operate the boatyard expires June 30, 2010 and the Harbor District, without competitive bidding, is extending that agreement with increased rent. This is a sound approach only in the short term.

Financial information regarding District operations provides a context for making various decisions, in addition to providing accountability to the District's property owners whose taxes support the District. Accounting details for these purposes are sparse. While consistent with standard accounting practices, the District's balance sheet and statement of income and cash flow for 2008 and 2009 do not furnish data by assets such as the piers, buildings and equipment. Detail about income and expenses for the parking lot in Avila Beach, the Lighthouse and the various concessions would help in analyzing bottom line costs and benefits. For example, the consolidated budget for income shows a line item for the Avila Beach parking lot, whereas the consolidated budget for expenses does not show any detail regarding parking lot expenses.

Potential Conflict of Interest

A boat owned by a Harbor Commissioner was for sale and stored at the boatyard at a reduced rate from that posted. When a commissioner receives services from a concessionaire at a reduced rate, it creates the appearance of a conflict of interest -- and when that commissioner votes favorably on issues concerning that concessionaire it is a conflict.

At least one commissioner has membership in the private Yacht Club located on the pier in Avila Beach. Harbor commissioners periodically vote on issues relating to the Yacht Club. The commissioner who is a member votes on these issues, which could be viewed as a conflict of interest.

Future Development

Among its holdings the Harbor District owns about 26 acres of property overlooking the Bay. This property is particularly beautiful, and valuable. However, it is now largely in disarray. It is used for boat and gear storage and the remnants of a mobile home park. The District's master plan for this property includes a recreational vehicle park and other facilities for which the District has granted GMB Realty the exclusive right to negotiate the property's development. A long term lease to the developer will be required. Details of that lease and the lessee's property rights have yet to be finalized. The District should be able to retain fee simple ownership.³

FINDINGS

1. Over time the focus of the Harbor District has changed from just operating the harbor to developing a recreational vehicle resort and other commercial facilities and managing holdings in Avila Beach.
2. The basin that serves the sport launch has sanded in to the extent that the floating dock is often on land and the available water is insufficient to float a boat. Potential customers and potential income to the District may be lost as a result.
3. The end of the large mobile hoist pier is in relatively shallow water which makes it difficult, often times impossible, to haul or launch large craft. Potential customers could be lost and potential income to the District may be lost as a result.

³ Defined in Webster's New Collegiate Dictionary as "a fee without any restriction to any class of heirs or restrictions on transfer of ownership."

4. The boatyard operation agreement expires June 30, 2010. The Board is extending that agreement with increased rents in lieu of competitive bidding. This is a sound approach only in the short term.
5. The Harbor District has no competitive bidding policy for concessionaires.
6. Commissioners who own boats which are at the harbor rely upon services of concessionaires and vote on contracts with these concessionaires.
7. At least one commissioner has Yacht Club membership and has voted on issues involving the Club.
8. There is no promotion of the availability of the assembly room in the Gateway Building for rental to the public and it has not been rented as was intended. This may represent lost income opportunity.
9. District balance sheets, income and cash flow statements only provide a general picture by using broad categories and avoiding specifics. The budgets for income and expenses do not each include a line item for the Avila Beach parking lot.
10. The Harbor District is in negotiations with a developer on the property it owns overlooking the harbor for a recreational vehicle resort and other commercial development.

RECOMMENDATIONS

1. A plan needs to be developed and implemented to keep the sport launch basin continuously open for boats, perhaps by building an extension to the existing jetty to slow or prevent the intrusion of sand.

2. The large boat traveling mobile hoist pier should be extended into deeper water so that large craft can be hauled and launched on a regular basis even if that requires expenditure of District funds.
3. A competitive bidding policy should be established and consistently utilized for concessionaires.
4. Commissioners should recuse themselves and not influence votes on issues involving a service provider with whom they have a business relationship. Guidance from the Fair Political Practices Commission should be sought on such matters.
5. Commissioners who are members of the Avila Yacht club should not vote on issues that involve the club and the District.
6. The District should implement policy for rental of the assembly room in the Gateway Building. That policy should include a fee schedule and guidelines for when those fees may be waived. The policy should avoid any possible appearance of conflicts of interest.
7. The District should promote the rental availability of the assembly room.
8. The District should provide more financial report detail. It should list such assets such as each pier, each building and each major piece of equipment. In the revenue and expenditure statement, it should provide specific income and expense lines for the parking lot in Avila Beach and each concession. Annual District budgets also should each contain corresponding line items.
9. Any agreement to develop and lease the Harbor Terrace property needs to contain assurance that the District retains fee simple ownership.

REQUIRED RESPONSES

The Port San Luis Harbor District is required to respond to Findings 1 - 10 as well as Recommendation 1 - 9. The responses shall be submitted to the Presiding Judge of the San Luis Obispo Superior Court by **September 23, 2010**. Please provide a copy of all responses to the Grand Jury as well.

The mailing addresses for delivery are:

Presiding Judge	Grand Jury
Presiding Judge Charles S. Crandall Superior Court of California 1050 Monterey Street San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93402

APPENDIX A

